IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 3928 OF 2007.

Municipal Corporation of
Greater Mumbai ..Petitioners
V/s
The Workmen working in activity of
Sweeping, Cleaning and transporting
of Garbage and Anr. ..Respondents.

Mr. P.M. Palshikar a/w Mr. J.J. Xavier, Advocates for the Petitioners.

Mr. Milind Ranade, General Secretary for repsondents present.

CORAM : R.M. SAVANT, J.

DATE : 18TH MAY, 2007.
(VACATION COURT)

P.C.

. Heard Shri Palshikar learned Counsel for the petitioners and Shri Ranade, the General Secretary of the Respondent No.1 Union.

2. This petition is filed under Articles 227 of the Constitution of India impugning the order dated 8th May, 2007 passed by the learned Member of Industrial Court, on the interim application filed by the respondent No.1 herein in Reference Proceedings IT No.13 of 2007. By the said order, the petitioners herein i.e. the

Municipal Corporation of Greater Mumbai is directed to maintain status quo till the disposal of the application on merits as regards the employment of about 2700 employees, who are engaged in the work of cleaning and sweeping the city of Mumbai.

3. The said order has been challenged by the petitioners inter-alia on various grounds urged in the petition, primarily on the ground that the Industrial Court did not have jurisdiction to pass the order in the manner it did. The petitioners seek vacation of the said order in view of the facts that the said order has an adverse effect on the tenders invited by them vide Advertisement dated 9/5/2007 for carrying out the work of cleaning and sweeping.

4. It is pertinent to note that the Petitioner herein had earlier filed Writ Petition No. 971/2007, which came to be disposed of by this Court by its order dated 4th May, 2007. What is significant from the point of view of this petition is that this Court has recorded a finding that there is no employer employee relationship between the said workers and the petitioners herein. In the background of the said

order, the petitioners contend that the Industrial Court could not have passed the order of status-quo. The petitioners also rely upon the Judgment of the Apex Court in the case of **Secretary, State of Karnataka and others V/s Umadevi and others, ((2006) 4 SCC 1)**. In my view the interest of justice would be served, if the petitioners' application for vacating the order of status quo dated 8/5/2007 is directed to be decided within a particular time frame and that the existing contracts are extended by a further reasonable period, so as not to cause any hardship/ prejudice to the petitioners or to respondent No.1. Both Shri Palshikar and Shri Ranade are agreeable to the aforesaid course of action being followed.

5. The petition is therefore, disposed of by issuing the following directions.

(i) The Industrial Court, Mumbai is directed to consider and dispose off the petitioners' application for vacating stay, which is now fixed on 30th May, 2007 within a period of 10 days from 30th May, 2007. Parties to file additional replies if any, within 4 days from today.

(ii) Shri Palshikar, learned Counsel appearing for petitioners, makes a statement that the existing Contracts are continued up to 10th June, 2007. Statement accepted.

(iii) The petitioners are granted liberty to open the tenders invited by them, vide advertisement dated 9th May, 2007, to process the offers received but not to take a final decision till 10th June, 2007.

. The petition stands disposed of in the aforesaid terms.

(R.M.SAVANT, J.)